



PRELIMINARY HEARINGS

MAY 18, 2022

HISTORY OF PRELIMINARY HEARINGS

- PRE-STATEHOOD – HISTORICAL PREFERENCE FOR PRELIMINARY HEARINGS
- EARLY PIONEER DISTRUST OF FEDERAL GRAND JURIES
 - GRAND JURIES WERE SECRET
 - BIGAMY AND POLYGAMY PROSECUTIONS
 - ART I, SECTION 12 AND ARTICLE I, SECTION 13
 - ALWAYS A HISTORICAL PREFERENCE FOR PRELIMINARY HEARINGS

PRE-1994 PRELIMINARY HEARINGS

- ADVERSARIAL PROCEEDINGS
- RIGHT TO BE REPRESENTED BY COUNSEL
- RIGHT TO CROSS-EXAMINE WITNESSES
- RIGHT TO CALL WITNESSES
- RIGHT TO BE ADVISED OF THE NATURE OF ACCUSATION AGAINST ACCUSED
- DISCOVERY TO ALLOW “A MEANS BY WHICH [AN ACCUSED] CAN DISCOVER AND PRESERVE FAVORABLE EVIDENCE.”

STATE V. ANDERSON

- “THE FUNDAMENTAL PURPOSE SERVED BY THE PRELIMINARY EXAMINATION IS THE FERRETING OUT OF GROUNDLESS AND IMPROVIDENT PROSECUTIONS. THE EFFECTUATION OF THIS PRIMARY PURPOSE RELIEVES THE ACCUSED FROM THE SUBSTANTIAL DEGRADATION AND EXPENSE INCIDENT TO A MODERN CRIMINAL TRIAL WHEN THE CHARGES AGAINST HIM ARE UNWARRANTED OR THE EVIDENCE INSUFFICIENT.”

1994 AMENDMENT, ART I, SEC. 12

- PURPOSE OF PRELIMS LIMITED TO DETERMINING PROBABLE CAUSE *“UNLESS OTHERWISE PROVIDED BY STATUTE.”*
- ALLOWED FOR USE OF “RELIABLE HEARSAY . . . IF APPROPRIATE DISCOVERY IS ALLOWED”

NATURE OF PROBLEM

- PAPER PRELIMINARY HEARINGS (RULE 1102)
- NO WITNESSES
- LIMITED INFORMATION
- NO DISCOVERY
- STATEMENTS PREPARED BY PARALEGALS AT THE DA'S
- NO ABILITY TO CALL WITNESSES
- JUDGES QUASHING SUBPOENAS

Ralph Chamness
Chief Deputy
Civil Division

Lisa Ashman
Administrative
Operations

SIM GILL
DISTRICT ATTORNEY

Jeffrey William Hall
Chief Deputy
Justice Division

Blake Nakamura
Chief Deputy
Justice Division

March 31, 2022

[REDACTED]

Re: [REDACTED]

Dear [REDACTED]:

A Preliminary Hearing has been set for the above-named defendant on [REDACTED]. We recently mailed/issued you a court-ordered subpoena, which commands your appearance at our office, to testify remotely from one of our conference rooms, on the afore-referenced date. However, the prosecutor has determined that he/she may present your testimony via a written statement, called an "1102 Statement" in lieu of having you appear in person, and possibly having to wait several hours for your case to be called by the judge.

Rule 1102, Utah Rules of Evidence and §76-8-504.4, Utah Code Annotated, provide that a written statement may be used in place of personal appearance and testimony at a Preliminary hearing before a magistrate or judge.

Attached is a statement we have prepared, based on the facts of the police report and other statements that were provided during the investigation of the case. The purpose of this statement is to summarize your testimony, as it would be, if it were presented in court and contains all the necessary/relevant information needed for this particular hearing.

Be advised that if you follow the instructions and **return the statement to me on or before Thursday, April 7, 2022, at 3:00 PM**, you do not need to personally appear as directed by your subpoena. If you are unable to return the statement by the date and time indicated, please note that you are required by law to appear at our office as directed by your subpoena, or you may be held in contempt of court.

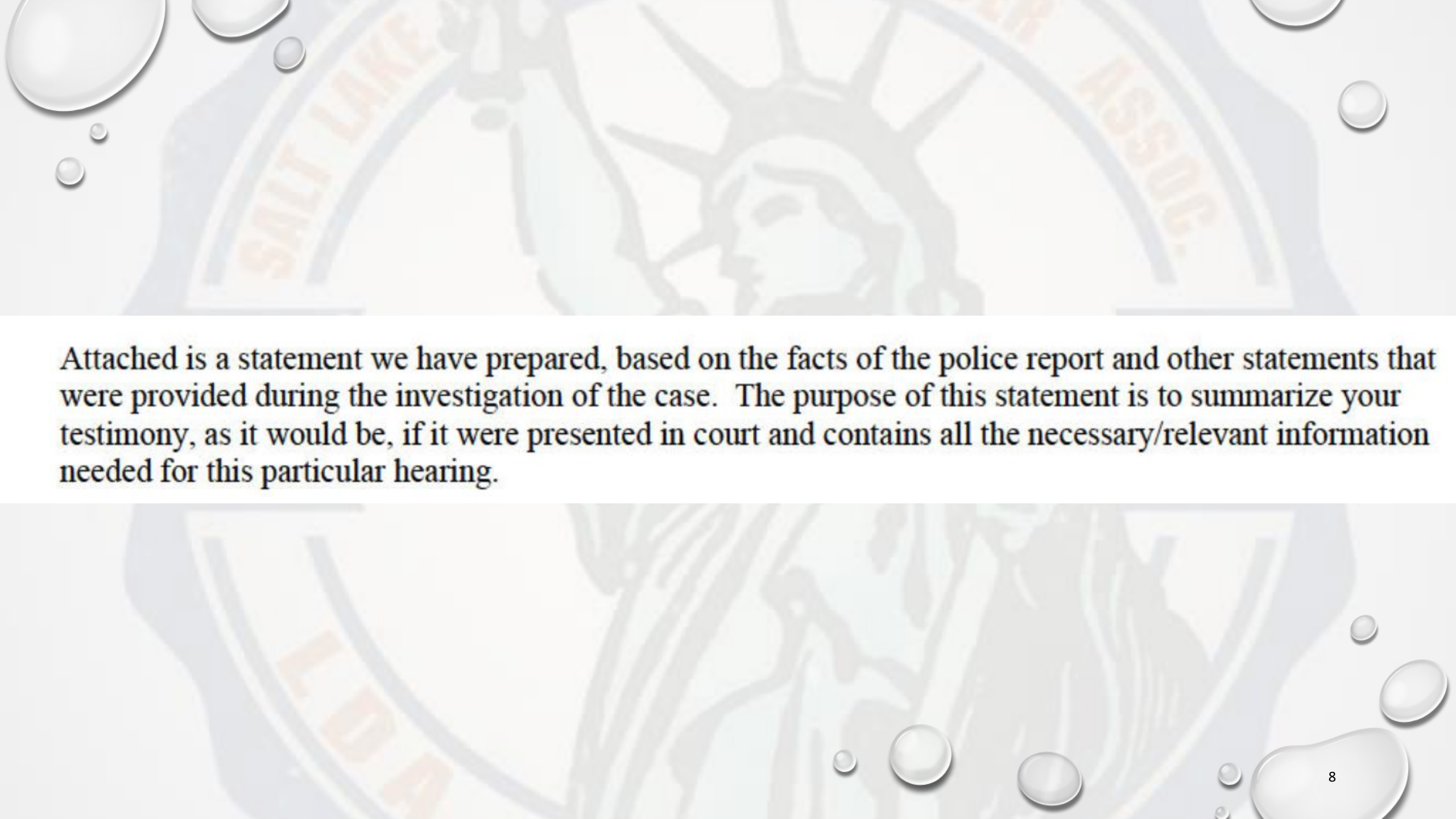
If you have any questions, please feel free to call me at the number listed below.

Sincerely,

[REDACTED]

[REDACTED] Paralegal
[REDACTED]

8090 South 1825 West · West Jordan · Utah · 84088
Telephone 385.468.7600 · Fax 385.468.7540 · www.districtattorney.slco.org



Attached is a statement we have prepared, based on the facts of the police report and other statements that were provided during the investigation of the case. The purpose of this statement is to summarize your testimony, as it would be, if it were presented in court and contains all the necessary/relevant information needed for this particular hearing.

WITNESS STATEMENT FOR USE AT PRELIMINARY EXAMINATION

I understand that pursuant to Rule 1102, Utah Rules of Evidence and Section 76-8-504.5, Utah Code Annotated, the statements I am about to make in this document may be presented to a magistrate or a judge in lieu of my sworn testimony at a preliminary hearing. I also understand that any false statement I make and that I do not believe to be true may subject me to criminal punishment as a Class A Misdemeanor. In Utah a class A misdemeanor carries a potential penalty of up to a year in jail and a fine of up to \$2,500 plus an 90% surcharge.

I understand the above statement.

1. My name is [REDACTED] and I am providing this statement in lieu of my personal appearance at the Preliminary Hearing for defendant [REDACTED] DA case [REDACTED] Third District Court case no. [REDACTED]

2. I am the alleged victim in this case and I have personal knowledge of the events described below.

3. On or about June 20, 2020, I was living at [REDACTED] in Salt Lake County.

4. One of my neighbors, [REDACTED] knocked on my door and demanded \$20 so he could buy some drugs. I refused; [REDACTED] punched me in the eye and blackened it. [REDACTED] left.

5. [REDACTED] returned a short time later, this time with two metal pipes. He again demanded \$20. This time I gave it to him and then he struck me in the face with the pipes, causing a 1 to 2" laceration.

6. I recognize the person in the photo to the right as [REDACTED]

Dated this 14 day of July, 2020.

PROBLEMS WITH 1102 REPORTS

- CREATES A ONE-PICTURE SHOW UP
- NO ABILITY TO PROPERLY EVALUATE STRENGTH OR WEAKNESS OF CASE
- INABILITY TO CHALLENGE DETENTION ONCE PC IS DETERMINED
- VIOLATES THE SPIRIT OF DUE PROCESS